

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
2401 E. 75TH ST. LLC,)
Complainant,)
) No. 13-0101
)
PEOPLES GAS LIGHT AND COKE)
COMPANY,)
Respondent.)
)
Complaint as to)
billing/charges in)
Chicago, Illinois.)

Chicago, Illinois
April 25, 2013

Met, pursuant to adjournment, at 10:18 a.m.,
in Conference Room S-801, 160 North LaSalle Street,
Chicago, Illinois.

BEFORE:

Mr. John T. Riley, Administrative Law Judge

1 APPEARANCES:

2
3 LAW OFFICES OF MATTHEW E. GURVEY, P.C.,
4 (111 West Washington Street, Suite 841,
5 Chicago, Illinois 60602,
6 (312) 924-5790), by:
7 MR. MATTHEW GURVEY,
8 mgurvey@gurveylawpc.com,
9 for the Complainant;

10 PUGH, JONES & JOHNSON, P.C.,
11 (180 North LaSalle Street, Suite 3400,
12 Chicago, Illinois 60601,
13 (312) 768-7862), by:
14 MS. KATHLEEN R. PASULKA-BROWN,
15 kpasulka-brown@pjlaw.com,
16 for the Respondent,
17 Peoples Gas Light and Coke Company.

18 Also Present:

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20 Mr. Azhar Satti,
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I N D E X

WITNESS	DX	CX	RDX	RCX	By Judge
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None.

E X H I B I T S

NUMBER	MARKED FOR ID	IN EVIDENCE
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None.

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket 13-0101.
3 This is a complaint by 2401 East 75th Street LLC
4 versus Peoples Gas Light and Coke Company as to
5 billing and charges in Chicago, Illinois.

6 Counsel for the complainant, would you
7 enter an appearance stating your name and address?

8 MR. GURVEY: I have one right here, your Honor.
9 Matthew Gurvey, G-u-r-v-e-y, for 2401 East 75th
10 Street LLC.

11 JUDGE RILEY: And your business address,
12 please?

13 MR. GURVEY: 111 West Washington, Suite 841,
14 Chicago, Illinois, 60602.

15 JUDGE RILEY: Thank you. And for Peoples Gas?

16 MS. PASULKA-BROWN: Kathy Pasulka-Brown, 180
17 North LaSalle, Suite 3400, Chicago, Illinois, 60601.
18 (312) 768-7800.

19 JUDGE RILEY: Thank you.

20 Mr. Gurvey, file that with the Office
21 of the Chief Clerk.

22 MR. GURVEY: Okay. Great.

1 JUDGE RILEY: The other thing is, to begin, in
2 the interest of full disclosure, on April 23, Mr.
3 Satti and an employee of his called me at my office,
4 and they were reiterating their complaint and
5 requested that I give them some kind of advice,
6 apparently, about how to get the service restored.
7 And when I had gone back and checked and realized
8 that you were -- Mr. Satti was represented by
9 counsel, I terminated the call. And prior to that, I
10 advised him that he had to speak through his attorney
11 and all conversations had to go from attorney to the
12 other attorney and all parties had to be present
13 so -- and I will also make note of that -- that
14 conversation on the commission website, so it will be
15 publicly posted. But in the interest of full
16 disclosure, I want to make sure you're brought up to
17 date.

18 MS. PASULKA-BROWN: Thank you.

19 JUDGE RILEY: Now, this is a status. Can the
20 parties tell me what the status of this matter is?

21 MS. PASULKA-BROWN: Yes. We had continued it,
22 the last time we were before your Honor, for purposes

1 of settlement negotiations. It's my understanding
2 that those settlement negotiations are not going
3 anywhere with respect to the property concerned in
4 this proceeding, so we would expect to be filing a
5 motion to dismiss later today.

6 JUDGE RILEY: Counsel?

7 MR. GURVEY: I can't speak for opposing
8 counsel, but I've been in communication with Koby
9 Bailey as early or as late as yesterday with the
10 attempt to settle this.

11 JUDGE RILEY: Who is Koby Bailey?

12 MR. GURVEY: Koby Bailey --

13 MS. PASULKA-BROWN: My client.

14 JUDGE RILEY: Oh, okay.

15 MR. GURVEY: He is an attorney for Peoples Gas,
16 among other things, I suspect.

17 The issue really arises, your Honor,
18 out of the fact that we all acknowledge that money is
19 owed to Peoples Gas. However, there is -- what the
20 problem has been is that Mr. Satti allegedly signed
21 up under his name in October, and then there was a
22 management company prior to that. Now, again, we're

1 only here on East 75th Street LLC. However, this is
2 an amalgamation of about six properties. So I, at
3 some point, probably have to amend my complaint,
4 although I'm hopeful that we can come to a
5 resolution. It just is always a moving target
6 because they keep cutting gas in another building
7 even though there's sort of an oral agreement in
8 place, which, again, without money, I understand why
9 they won't honor any agreement. But the problem is,
10 they want money owed before my client was on the
11 record, and it sort of goes against what I understand
12 to be Peoples Gas' policy. And that's from Mr.
13 Bailey. I'm not making, you know, that up myself.

14 JUDGE RILEY: Well, I'm confused about one
15 thing. You're dealing with someone at Peoples Gas --

16 MR. GURVEY: Yes.

17 JUDGE RILEY: -- that is an attorney --

18 MR. GURVEY: Yes.

19 JUDGE RILEY: -- but is not the attorney of
20 record in this proceeding?

21 MS. PASULKA-BROWN: Correct. And everything
22 that has been represented, the way I understand it,

1 relates to buildings other than the building in this
2 proceeding. So with respect to this proceeding,
3 which is the only thing that his complaint's about,
4 the settlement negotiations are going nowhere, and we
5 expect to file a motion to dismiss.

6 JUDGE RILEY: And you're talking about the 2401
7 East 75th Street building?

8 MS. PASULKA-BROWN: Yes, your Honor. So we'd
9 just like a briefing schedule. We'll file this
10 afternoon, either the standard 14 and 7 days in the
11 commission rules or whatever schedule your Honor
12 would like. It will be pretty straight forward, so I
13 think 14 and 7 would accommodate the interest of the
14 parties.

15 JUDGE RILEY: Okay.

16 Well, it's -- you can file the motion
17 to dismiss at any time.

18 MS. PASULKA-BROWN: Ah-huh.

19 MR. GURVEY: Again, no disrespect to opposing
20 counsel, I've been directed to deal with Mr. Bailey,
21 even from her as of last court. And I spoke to an
22 associate of hers --

1 MS. PASULKA-BROWN: That's not true.

2 MR. GURVEY: It is true, but that's neither
3 here nor there. And I spoke to an associate of hers
4 in heat court last week.

5 MS. PASULKA-BROWN: I don't have any associate
6 appearing in heat court for any reason.

7 MR. GURVEY: There was another attorney --

8 MS. PASULKA-BROWN: I had nobody there. Nobody
9 from my office was there for any reason.

10 MR. GURVEY: So you -- so you acknowledge that
11 you never told me to talk to Mr. Bailey about this at
12 all, that I was in negotiation? You don't recall
13 that?

14 MS. PASULKA-BROWN: Would you like me to direct
15 a response to him, or do you want --

16 JUDGE RILEY: Well, yeah, let's sort this out.
17 That's fine. What's going on here?

18 MS. PASULKA-BROWN: Negotiations apparently are
19 going on between Peoples Gas, whatever
20 representatives, and counsel with respect to other
21 properties.

22 MR. GURVEY: It involves this property. It

1 involves all properties, including this property.

2 That's part of the problem. There's no
3 communication. I'm dealing with 20 different people,
4 and no one can make a decision in any department.

5 MS. PASULKA-BROWN: I think he's dealing with
6 Koby Bailey, number one. And number two, with
7 respect to this property, he can deal with me.
8 There's no settlement pending. We'll file the motion
9 to dismiss, so we would just request the entry of a
10 briefing schedule.

11 MR. GURVEY: Again, your Honor, the settlement
12 with Koby Bailey involves this property, so why would
13 I have a separate negotiation with this attorney?

14 JUDGE RILEY: Why doesn't Mr. Bailey or this
15 individual file an appearance here?

16 MR. GURVEY: I have no idea.

17 MS. PASULKA-BROWN: He doesn't need to file an
18 appearance. We're representing Peoples Gas on this
19 matter with respect to this property, and I am in
20 communication with Mr. Bailey very frequently.

21 I mean, does your Honor want to enter
22 a briefing schedule, or do you want to just continue

1 it for a short date?

2 JUDGE RILEY: What are we briefing here? If
3 you're going to file --

4 MS. PASULKA-BROWN: It would be a motion to
5 dismiss.

6 JUDGE RILEY: Right. Well, you can file -- as
7 I say, you can file the motion to dismiss at any
8 time.

9 MS. PASULKA-BROWN: Right.

10 JUDGE RILEY: And at that point, I would send
11 out a notice --

12 MS. PASULKA-BROWN: Okay.

13 JUDGE RILEY: -- stating when replies and
14 responses are due.

15 MS. PASULKA-BROWN: Should we just generally
16 continue the matter for purposes of today, then?

17 JUDGE RILEY: I have had a number of these that
18 have been -- a number of dockets that have been
19 generally continued, and then they have the danger of
20 falling into the abyss.

21 MS. PASULKA-BROWN: We can do it for a week, if
22 you'd like, because we'll be filing today.

1 JUDGE RILEY: What I'd rather do is put a date
2 certain on it and give the parties long enough --

3 MS. PASULKA-BROWN: Sure.

4 JUDGE RILEY: -- to respond.

5 MS. PASULKA-BROWN: Okay.

6 Do you want to put a date certain on
7 our filing of the motion to dismiss?

8 JUDGE RILEY: No, no, no. On reconvening here
9 in the event that I deny it. I mean, I haven't made
10 a decision.

11 MS. PASULKA-BROWN: Sure.

12 MR. GURVEY: Your Honor, there's also an issue
13 of a building with no heat that was cut off by
14 Peoples Gas.

15 MS. PASULKA-BROWN: Not this building, your
16 Honor, and not this complaint.

17 JUDGE RILEY: All right.

18 Under any circumstances, there's
19 nothing that the Administrative Law Judge can do
20 about heat that's been cut off. I cannot issue an
21 order. I don't believe the commission can either,
22 certainly not at this stage of the proceeding.

1 Well, the first thing we're going to
2 have to deal with, then, is the motion to dismiss.

3 MS. PASULKA-BROWN: Yes.

4 JUDGE RILEY: And all I request is that it be
5 as comprehensive as possible to outline that this is
6 the only building involved, that the 2401 East 75th
7 Street is -- from Peoples Gas' standpoint -- the only
8 issue involved in this complaint.

9 MS. PASULKA-BROWN: Certainly.

10 JUDGE RILEY: So that's where we are right now,
11 is to deal with that.

12 MS. PASULKA-BROWN: Do you have a date in mind
13 that you want to continue it to?

14 JUDGE RILEY: Probably give it 30 days, and
15 that will be plenty of time for responses and then
16 for me to make a ruling.

17 MS. PASULKA-BROWN: Okay.

18 JUDGE RILEY: If -- well, let me explain the
19 procedure if I were to deny it. I would simply send
20 out a notice of the administrative law judge's ruling
21 to the parties denying it. If it were to be granted,
22 I would have to send a proposed order to the parties

1 because only the commission can grant the motion to
2 dismiss. That's the ultimate disposition of the
3 case, and that can only go through the commission.

4 MR. GURVEY: Is there a briefing schedule to be
5 had? Do I have an opportunity to respond to her
6 motion?

7 JUDGE RILEY: Oh, absolutely.

8 MR. GURVEY: Okay. Fine.

9 JUDGE RILEY: I'll send out an ALJ ruling
10 saying that I've received the motion and that the
11 parties have X number of days.

12 MR. GURVEY: Fair enough.

13 JUDGE RILEY: And in my discretion, I can give
14 more or less than is provided in the rules. If more
15 time is needed, I will certainly do that. But why
16 don't we just -- does anyone have an open time -- an
17 opening on May 23?

18 MS. PASULKA-BROWN: May 23 is fine for Peoples
19 Gas.

20 JUDGE RILEY: And it sounds like I am going to
21 have to give more time than is allowed for in the
22 commission rules.

1 MS. PASULKA-BROWN: Maybe. I don't think so
2 when you see the motion but --

3 JUDGE RILEY: Anyway, we'll do that at 10:00
4 a.m. on the 23rd.

5 MS. PASULKA-BROWN: That's fine with us, your
6 Honor.

7 MR. GURVEY: 10:00 o'clock again, Judge?

8 JUDGE RILEY: Right.

9 MS. PASULKA-BROWN: Counsel, you're going to
10 file that today? Do you have a copy for me, your
11 appearance?

12 MR. GURVEY: I'll -- you can have it without it
13 being stamped. Do you want it this way?

14 MS. PASULKA-BROWN: Sure, because you're going
15 to file it appropriately anyway, so it will be
16 stamped.

17 MR. GURVEY: Yes.

18 JUDGE RILEY: One other thing I want to return
19 to. Are you going to file a motion to dismiss
20 regardless of complainant's attempt to file an
21 amended complaint?

22 MS. PASULKA-BROWN: Yes, your Honor.

1 MR. GURVEY: It's her prerogative. I mean --
2 you know, I'm confused. You know, my client's
3 telling me that his complaint included all of the
4 properties. Obviously, opposing counsel is saying,
5 no, it doesn't.

6 MS. PASULKA-BROWN: You have a copy of the
7 complaint, don't you?

8 MR. GURVEY: Right. And I -- and I just don't
9 understand why you're saying --

10 JUDGE RILEY: Well, I was reading this yet
11 again because it does mention 2401 East 75th Street
12 LLC for all buildings. New accounts were allotted to
13 2401 East 75th Street LLC for all buildings,
14 including 11932 South Stewart.

15 MR. GURVEY: And again, Judge, I probably have
16 to get the organizational documents for what 2401
17 East 75th Street LLC owns. And if that's the case,
18 then I can certainly bring it to opposing counsel's
19 attention. And if it includes all of them, then it
20 includes all of them.

21 JUDGE RILEY: Okay.

22 MR. GURVEY: So, again, it's full disclosure.

1 I want to reiterate. We're trying to resolve this.
2 And that was the purpose of bringing this complaint
3 because we can't get this resolved. And Peoples Gas
4 keeps changing what they want. So once I can get
5 through that, then we can happily write a check and
6 move forward.

7 JUDGE RILEY: All right.

8 Well, I'm going to certainly encourage
9 the --

10 MR. GURVEY: I'm trying.

11 JUDGE RILEY: -- you know, the settlement
12 efforts. But as counsel said, you know --

13 MR. GURVEY: Again, my directive --

14 JUDGE RILEY: There's been no movement with
15 regard to this --

16 MR. GURVEY: Your Honor, my directive was to
17 deal with Mr. Bailey, so at no time was I ever
18 directed to deal with opposing counsel at any time.

19 MS. PASULKA-BROWN: And I don't understand
20 where this directive had come from but --

21 MR. GURVEY: But I've only been dealing with
22 Koby Bailey. Have you ever called me to discuss

1 this? I've never been told to deal with you on this
2 case at all.

3 MS. PASULKA-BROWN: I've filed an appearance in
4 this case.

5 MR. GURVEY: But that has nothing to do with
6 it. You know there's a global matter.

7 MS. PASULKA-BROWN: So as a gray matter of
8 proceedings --

9 MR. GURVEY: I'm not going to argue with you.

10 MS. PASULKA-BROWN: -- normally you deal with
11 opposing counsel. You can deal with whoever you
12 choose to, but there's nobody that restricted you
13 from dealing with me on this matter.

14 JUDGE RILEY: Where we are now is the motion to
15 dismiss. And, Counsel --

16 MR. GURVEY: Either I'll amend, Judge, or I'll
17 respond depending on the time your Honor gives me.

18 JUDGE RILEY: All right.

19 That's fine. So -- well, we've got
20 another status date set, so I'll look forward to
21 receiving the motion to dismiss and/or the amended
22 complaint if you so choose.

1 MR. GURVEY: Thanks, your Honor.

2 JUDGE RILEY: All right.

3 MS. PASULKA-BROWN: Thank you.

4 JUDGE RILEY: Thank you.

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6 (WHEREUPON, the proceedings have
7 been adjourned until, May 23,
8 2013, at the hour of 10:00 a.m.)

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